

**DECISION**



12194  
PL-1  
Mr. Hondall  
**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

FILE: B-196644

DATE: December 4, 1979

1 MATTER OF: Marine Ways Corporation 0.3460

**DIGEST:**

Protest is untimely and not for consideration on merits when basis for protest (bid determined late and, therefore, not for consideration for award) was known more than 10 days prior to filing.

213 Marine Ways Corporation (Marine) has protested the rejection of its bid under invitation for bids (IFB) No. 10-S0195, issued by the United States <sup>32</sup> Department of the Interior, Bureau of Reclamation, <sup>76</sup> (Interior).

Marine's protest, filed with our Office on November 1, 1979, is based on Interior's determination that Marine's bid was late and, therefore, not for consideration for award. Marine contends that its bid was received by Interior on September 4, 1979, prior to the September 7 bid opening. However, Marine advises that its bid, rather than being delivered to the bid opening room, remained in the receiving department until after the time scheduled for bid opening. Marine posits that had it not made a phone call on September 7, apparently to check on the bidding results, its bid might have remained in the receiving department longer than it did. Notwithstanding that, Interior advises that Marine was notified of the late bid determination by letter dated September 7, 1979, and was notified of contract award by letter dated September 14, 1979.

Our Bid Protest Procedures provide that protests "shall be filed not later than 10 [working] days after the basis for protest is known or should have been known, whichever is earlier." 4 C.F.R. § 20.2(b)(2) (1979). "The term 'filed' as used in [section 20.2]

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means receipt \* \* \* in the General Accounting Office \* \* \*. Protesters are cautioned that protests should be transmitted or delivered in the manner which will assure earliest receipt." 4 C.F.R. § 20.2(b)(3) (1979).

It is clear from the record that Marine was aware of the basis of its protest more than 10 days before its protest was filed with our Office. Therefore, Marine's protest is untimely and not for consideration on the merits.

*for* *Harry R. Van Cleave*  
Milton J. Socolar  
General Counsel